

**ADEPT**  
**Legal Commentaries**

Review: summer-winter 2003

## **Parliament activity review during summer - winter session**

15 September 2003

The Parliament is due to resume its activity soon. The fall session commences at the end of September and is much shorter than the spring - summer one. A review of the latter is provided below.

As usual the legislative body activity over a six months period was evaluated by its leadership at the end of the spring-summer session. The significant number of adopted acts and laws was viewed as an indicator of better organization and increased responsibility of the elected officials. It was also noted that the quality of legal acts adopted had significantly improved, however no concrete examples were provided. The majority faction and opposition have different opinions on that. Opposition claims that many of the really needed laws hadn't been examined, whereas the adoption of some of the passed laws could have been postponed for a latter time as they are likely to produce little visible impact on the socio-economic situation in the country.

Public opinion also is split on this, a number of extra-parliamentary opposition parties and civil society leaders pointed that the high number of adopted laws indicated a lack of clear strategy and thorough research in the matters subject to the laws. Nevertheless, continuous modification of laws poses serious disadvantages to the private sector. Both foreign and domestic investors are concerned about frequent changes in the rules of the game and most importantly about the evidences of nationalization policy. These tendencies coupled with bureaucratic and corrupted administration, lack of incentives to private sector, and authoritarian style of the incumbent governing have lead to a diminishing support of Communist party among its traditional electorate in the recent local elections. Despite their victory in the elections, the results are indicative of the party declining popularity.

Looking back, in the spring-summer session the great majority of laws was adopted by the Parliament with an eye towards elections and was intended for short-term and sometimes even populist results given the worsening social, economic and political situation in the country.

Let us now review the most important acts adopted by the Parliament in the key areas, accompanied whenever necessary with ADEPT experts comments:

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### **Constitutional issues**

At the end of the session the Parliament amended the Constitution, thereby reinforcing the status of Gagauz Autonomy.

Among others the law provides that Gagauz Autonomy is entitled to legal initiatives. Article 111 provides additional clarification to the autonomy functioning. Under the revised Constitution Gagauz Yeri is an autonomous region enjoying a special status, constituting a form of self-determination of Gagauz people, being an integrated and inalienable part of the Republic of Moldova, entitled to independently solve political, economic and cultural matters within its competence, in line with the Republic of Moldova Constitution and in the interest of its whole population. The land, earth depths, waters, vegetable and animal kingdoms, and other resources of the Gagauz Yeri territory are the sole property of the people of the Republic of Moldova in use by Gagauz Yeri. The amendment of the organic law regulating the special legal statute of Gagauz Yeri, could be possible only with the vote of three fifths of the total number of elected deputies.

The need to better regulate the status of Gagauz Yeri surfaced during 2001 electoral campaign when the "First Gagauz", Vladimir Voronin, signed a Cooperative Agreement with the People's Assembly of the Autonomy. Later on the Communist Party leader was criticized for not keeping his promise and for not paying due attention to the ethnic minority in the South of the Republic.

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## Social issues

### **I. Law No.190-XV of 08.05.2003 on Veterans**

The law was intended to provide the legal framework for Republic of Moldova veterans and to regulate their rights, economic and social guarantees with an eye towards their welfare, participation in public life as well as towards assisting veteran associations. The law gives little attention to the latter, allowing them to register however, grants them no benefits.

Adopted on the eve of local elections the law had a twofold goal:

- to provide incentives for the grateful veterans to vote in favor of the Communist Party;
- to prove to its voters that the Communist Party kept up its promises and that despite objections from the international monetary organizations the party strives for the peoples' welfare.

So far the law has had no social impact as some of allowances it provides still haven't been paid, whereas others are still to be established by the local public administration or local business.

The law has had no political impact either, as the party didn't gain extra votes to the number registered in the last parliamentary elections. One may only wonder how many votes the ruling party had gathered if it wouldn't have been for the thousands of veterans who had voted in their favor.

Nevertheless the law has had an impact in economic terms, when IMF commented that the law runs counter to the previous agreements and used it as another argument for not resuming the funding.

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### **II. Law No.264-XV of 26.06.2003 on the Application of Mandatory Health Insurance**

The law provides for the application of mandatory health insurance in the district Hincesti, and upon its success throughout the entire country. It should be noted though, that back in 2002 some experts voiced their skepticism with regard to mandatory health insurance as being inefficient and jeopardizing the national medicare system.

Official sources reported that Hincesti tryout was successful as the funds for the procurement of medical supplies significantly increased. However those official sources fail to mention that the salaries to the medical workers are still paid from the central budget and that Hincesti rayon is among the few ones having considerable revenues.

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### **III. Other socially oriented acts include:**

- Law on Labor Force and Social Security of the Unemployed;
- Law on Social Canteens;
- Law on Consumers' Protection;
- Labor Code etc.

Please note that the laws have been considered in great detail in the previous ADEPT commentaries.

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## Judicial and public administration reform

### **I. Law on Prosecution, No. 118-XV of 14.03.2003**

After long discussions on the need to reform Prosecution, a new law was adopted. Nevertheless the law did not bring any changes in the Prosecution mandate. Under the law Prosecution is an independent, specialized body functioning within the judiciary.

In addition, Prosecution is independent from public authorities and is guided by the general interests of the society at large and citizens' rights and freedoms when conducting investigations.

A whole series of events in 2003 - allegations in press, staff reshuffles, and investigations "on orders" - proved that Prosecution is still a body obedient to the governing and that changes in the law do not necessarily mean changes in the essence and tasks of the structure responsible for doing the justice.

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## **II. Law on judiciary reform, No.191-XV of 08.05.2003**

As in the case of Prosecution, the legislative adopted several laws enabling some power branches to control the judiciary, by being able to replace the judges without any grounds, by establishing additional administrative positions within the judiciary (like Deputy Chairpersons and Senior Deputy Chairpersons,

The laws provide for the reducing the judiciary system by eliminating Tribunals, which shall be replaced at the local level by the Courts of Appeals.

Other provisions worth referring to are: separate budget line for each Court and Court of Appeal, prohibition to cut the budget of the judiciary institutions, personal assistants to the judges serving in the Supreme Court of Justice, etc.

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## **III. New Code of Penal Procedure and Code of Civil Procedure**

With the adoption of these extremely important pieces of legislation a very long stage of debates and research had been completed.

The incumbent Parliament succeeded to complete the most important stages in the judicial reform, with a new Penal and Civil Code already adopted.

The only unresolved problem remains to be the administrative offence. The new Penal Code excludes from its jurisdiction certain types of offences, which now fall within the area of the law on offences.

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## **IV. Law No.232-XV of 05.06.2003 on Amending the Law on Citizenship**

Via this law the Parliament adopted the amendments to the Law on Citizenship intended to bring it in line with the constitutional provisions that had abolished the interdiction to hold double or multiple citizenship. The law also provides that the individuals who had previously held Moldovan citizenship may recover it and at the same time retain their current foreign citizenship.

The reactions to the law have been multiple. Several experts claimed it might damage the statehood as many Moldovan citizens hold also Romanian, Ukrainian or Russian citizenship, and it remains to be seen to which country they'll be more loyal. This didn't stop the majority faction claiming to fight for the Moldovan statehood, to vote for the amendments.

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## **V. Law on Local Public Administration and Law on Administrative Territorial Division of the Republic of Moldova**

Despite the heavy criticism by domestic and international observers, the Parliament voted a new Law on Public Administration and endorsed the return to the rayon system.

If the need to undertake administrative-territorial reform is still questionable, the elaboration and adoption of a new Law on Local Public Administration under a close monitoring of the Council of Europe may be viewed as a success. The new law includes a series of provisions broadening local autonomy, increasing communities' role in resolving local and regional problems.

On the other hand, eventual modifications in the local public administration, especially public finances, administration of the property of the newly formed rayons should be closely monitored. Given that Council of Europe is still monitoring the country despite the efforts undertaken by the authorities to end it, we could only hope that those regulations will not be detrimental to the local public administration.

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## **VI. Law No.54-XV of 21.02.2003 on Fighting Extremism**

The law was developed immediately after the protest rallies ended and was intended to prevent such mass events from happening in the future and thus disturbing the incumbent ruling.

Recently, Christian Democrat faction in Parliament initiated a draft law to abrogate the aforesaid law. There are very few chances that the law will be passed by the legislative body given that the Government did not endorse it.

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## **Economy & finance**

### **I. Law No.78-XV of 28.02.2003 on prolonging the Law No. 1217-XIII of June 25, 1997 on Privatization Program for Years 1997-1998**

Although they opposed privatization, Communists voted for the prolongation of the program until 2005. Privatization has slowed down in the recent years, in the last year only several enterprises were sold out to Russian investors.

Despite political reasons for the slow down, experts believe economic interests of the governing elite are at stake. Allegedly they are trying to secure their business niche.

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### **II. Law No. 198-XV of 15.05.2003 on Leases in Agriculture**

The law is intended to establish the normative framework for fostering leasing activities in agriculture, determine the objects and subjects of relations in agriculture as well as relevant rights and obligations.

The law is said to be aimed at annulling the contracts previously concluded and thus ensuring the "consolidation of agricultural fields" under kolhoz type structures.

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### **III. Law No.265-XV of 26.06.2003 on Inspection before Expedition**

The law was adopted too late for the IMF to accept releasing the next disbursements to Moldova. As a result at the moment there is a very strange situation. On the one hand the ruling party opposed inspection and apparently they had reasonable grounds for doing so. On the other, inspection issue more than certain would end up in the next agreement to be negotiated with IMF, and if the law is abrogated then a new draft law would look rather silly.

In this respect, Government procrastination on this issue suits the authorities rather well. However, in the long run the accrued penalties due to SGS might exceed by far any short term political benefits.

It might well happen that in 2004 when IMF will insist again on inspection, there would be no company willing to bid, which again would thwart credit disbursements. One thing is for sure, inspection saga will be perpetrated for quite a while.

**In conclusion**, despite the significant number of legal acts adopted during the last session, the Parliament failed to pass laws that would lead to some meaningful changes in the judiciary, social, economic and administrative field. Thus the major problems the ruling party is confronted with are still unresolved:

- Country reintegration;
- Economic growth;
- Fighting crime and corruption.

One thing is for sure, we'll keep monitoring the developments in the legislative body.